

BILL NO. S-74-05-43

SPECIAL ORDINANCE NO. S- 85-74

AN ORDINANCE approving a contract with JOHN
GALT, INC. and HAROLD PALMER for Sanitary
Sewer in Market Place of Canterbury.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
WAYNE, INDIANA:

SECTION 1. The contract between JOHN GALT, INC., HAROLD D.
PALMER and the City of Fort Wayne, by and through its Mayor and the Board of
Public Works, for the construction of a sanitary sewer, as follows:

Commencing at the existing Manhole No. 19 at Station 54 + 20,
St. Joe Interceptor Sewer - Division II, Resolution No. 219, and
222[±] feet South of the centerline of St. Joe Center Road on the
West property line of Lot No. 1 in Parker Homestead Addition,
Section 19, Township 31 North, Range 13 East, Allen County;
thence, South in and along a 20 foot easement, recorded under
Instrument 74-00661, 30[±] feet; thence, Easterly in and along said
easement a distance of 640-feet terminating at a proposed manhole.
Said sewer to be 18 inches in diameter.

for a total cost of \$22,807.28, to be shared 41% by Developer and 59% by the City,
all as more particularly set forth in said Contract, which is on file in Office of
the Board of Public Works, and is by reference incorporated herein and made a
part hereof, is hereby in all things ratified, confirmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from and
after its passage and approval by the Mayor.



Councilman

APPROVED AS TO FORM
AND LEGALITY


CITY ATTORNEY

Read the first time in full and on motion by Moses, seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: 5-28-74

Charles W. Talarico
CITY CLERK

Read the third time in full and on motion by Moses, seconded by Hinga, and duly adopted, placed on its passage. Passed (~~lost~~) by the following vote:

AYES 9, NAYS 0, ABSTAINED _____, ABSENT _____ to-wit:

BURNS	<u>X</u>	_____	_____	_____
HINGA	<u>X</u>	_____	_____	_____
KRAUS	<u>X</u>	_____	_____	_____
MOSES	<u>X</u>	_____	_____	_____
NUCKOLS	<u>X</u>	_____	_____	_____
SCHMIDT, D.	<u>X</u>	_____	_____	_____
SCHMIDT, V.	<u>X</u>	_____	_____	_____
STIER	<u>X</u>	_____	_____	_____
TALARICO	<u>X</u>	_____	_____	_____

DATE: 6-11-74

Charles W. Talarico
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. 8-85-74 on the 11th day of June, 1974.

ATTEST: (SEAL)
Charles W. Talarico
CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of June, 1974, at the hour of 2 o'clock A M., E.S.T.

Charles W. Talarico
CITY CLERK

Approved and signed by me this 12th day of June, 1974, at the hour of 2:00 o'clock P M., E.S.T.

Paul J. Ford
MAYOR

Bill No. S-74-05-43

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on Public Works to whom was referred an Ordinance
approving a contract with JOHN GALT, INC. and HAROLD PALMER for
Sanitary Sewer in Market Place of Canterbury.

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance Do PASS.

Winfield C. Moses, Jr - Chairman

John Nuckols - Vice-Chairman

James S. Stier

William T. Hinga

Vivian G. Schmidt

Winfield C. Moses, Jr
John Nuckols
James S. Stier
William T. Hinga
Vivian G. Schmidt

CONCURRED IN
DATE 6-11-74 CLERK OF THE CITY CLERK

- 16

A G R E E M E N T
F O R
S E W E R E X T E N S I O N

THIS AGREEMENT, made in triplicate this 20th day of May, 1974, by and between JOHN GALT, INC., hereinafter referred to as "Developer", HAROLD D. PALMER, hereinafter referred to as "Owner", and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "City",

WITNESSETH:

WHEREAS, the "Developer" is improving Lot Nos. 1 and 2 of Parker Homestead Addition on St. Joe Center Road, to be known as an amended part of the Market Place of Canterbury; and

WHEREAS, the "Developer" desires to obtain sanitary sewer service for said Market Place of Canterbury; and

WHEREAS, numerous areas other than the "Developer's" area can be served; and

WHEREAS, the "Developer" and "City" have agreed to jointly construct a sewer to serve said Market Place of Canterbury and other areas; said sewer known as "The Market Place of Canterbury Sanitary Sewer Lateral "A", hereinafter referred to as "Sewer", and is described as follows:

THE MARKET PLACE OF CANTERBURY SANITARY SEWER LATERAL "A":

Commencing at the existing Manhole No. 19 at Station 54 + 20, St. Joe Interceptor Sewer - Division II, Resolution No. 219, and 222 ± feet South of the centerline of St. Joe Center Road on the West property line of Lot No. 1 in Parker Homestead Addition, Section 19, Township 31 North, Range 13 East, Allen County; thence, South in and along a 20 foot easement, recorded under Instrument 74-00661, 30 ± feet; thence, Easterly in and along said easement a distance of 640 ± feet terminating at a proposed manhole. Said sewer to be 18 inches in diameter.

Said "Sewer" to be constructed in accordance with the plans, specifications and profiles as prepared by Gerald E. Roche of Harold Palmer, and on file at this time in the office of the Board of Public Works commonly known as "The Market Place of Canterbury Sanitary Sewer Lateral "A". Said plans, specifications and profiles are by reference incorporated herein and made a part hereof; and

WHEREAS, the cost of construction of said "Sewer" is represented to be \$22,807.28, which is composed of \$20,370.25 construction cost, plus \$2,037.03 for engineering and inspection costs, and \$400.00 for agreement services.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The "Developer" shall cause said "Sewer" to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the Water Pollution Control Engineering Department under private contract after requisite "City" approval. All work and materials shall be subject to inspection by "City" and the right of "City" to halt construction if there shall be non-compliance therewith. Said "Sewer" shall not be deemed permanently connected into the sanitary sewer system of the "City" until final acceptance by "City". Upon completion, said "Sewer" shall become the property of "City", and "City" shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by "City", and all further maintenance thereafter shall be borne by "City".

2. COST OF CONSTRUCTION

The "Developer" and "City" hereby agree to share the entire cost and expense of construction of said "Sewer", including engineering, inspection, and agreement costs on a 41% - 59% basis respectively.

Bids for the construction cost of said "Sewer" were received and opened at the office of the Board of Public Works at 9:00 A.M. on April 16, 1974.

The "Developer" will award the contract and supervise construction of said "Sewer", and "City" shall pay to "Developer" 59% of the cost set forth herein after completion and acceptance not to exceed \$13,456.30.

3. AREA OF DEVELOPER AND OWNER

Said "Sewer", when accepted by the "City", will serve the following described real estate: A part of the Northeast quarter of Section 19, Township 31 North, Range 13 East, Allen County, Indiana, more fully described as follows:

Lot Nos. 1 and 2 of Parker Homestead Addition

4. CHARGE AGAINST EXCESS AREA

Said "Sewer" when constructed, will serve additional or excess area in Northwest $\frac{1}{4}$, Section 20, Township 31 North, Range 12 East, as shown on attached EXHIBIT "A".

In the event any present or future owner within the aforescribed said excess area shall at any time, within fifteen (15) years after the date of this contract desire to use said "Sewer" or any extension thereof, whether by direct tap or through the

extension or connection of lateral or local lines to service such land; "City", through its duly constituted authorities, before permitting such use, shall require by contract or assessment, as may be appropriate, that such owner or owners of said excess area pay to "City" in addition to the cost of standard tap-in inspection fees and service charges the sum of \$13,456.30 for connection and use of said "Sewer" or a prorata share of the cost of the extension of "City" sewer to said excess area not to exceed \$500.00 per acre. The excess area subject to charge for construction and use of "Sewer" as of this date is attached.

The amount so collected by the "City" shall be retained by "City" and deposited with Fort Wayne Sewer Utility.

Also, an area connection charge of \$400.00 per acre must be paid to "City" at the time of any connection into said "Sewer". This area connection charge is in addition to the area charge as set forth above, and represents the oversizing cost expended by "City" for sewer line pertaining to St. Joe Interceptor, Division IV, Resolution No. 219, all as recorded in Instrument No. 72-04014 on February 29, 1972.

5. BOND

This contract is subject to "Developer" furnishing a satisfactory Guaranty Bond for 25% of the value of said "Sewer", which shall guarantee said "Sewer" against defects for a period of one (1) year from the date of final acceptance of said "Sewer" by the "City".

6. LIMITATION ON USE

Said "Sewer" shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said "Sewer", shall at any time discharge or permit to be discharged or to flow into said "Sewer", any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of "City", by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

8. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

The "Owner", for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "City" of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce "City" to execute and ratify this contract, said "Owner", for himself, his successors and assigns, agrees by this contract to vest in "City" the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

"Owner" further agrees that any deeds, contracts, or other instruments of conveyance made by the "Owner", its successors or assigns transferring or conveying any interest or title in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instrument from the "Owner", his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

The "Owner" further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of "City" as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of "City", who connect into the "Sewer" constructed hereunder, shall be deemed to thereby waive his, her, their or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "City" of such land or of the territory in which it is located or of the area served by said "Sewer".

IN WITNESS WHEREOF, the parties have subscribed to this agreement the day and year first above written.

DEVELOPER: JOHN GALT, INC.

BY: *John D. Galt, Jr., Pres.*

OWNER: HAROLD D. PALMER

BY: *Harold D. Palmer*

CITY OF FORT WAYNE, INDIANA

BY: *Ivan A. Lebamoff*
Ivan A. Lebamoff, Mayor

BOARD OF PUBLIC WORKS

BY: *Frank D. Brancep*

BY: *Ronald L. Bonar*

BY: *William F. Truitt*

ATTEST:

Eva L. Smith
Clerk

Approved as to form and legality:

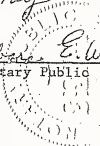
[Signature]
Associate City Attorney

This Instrument prepared by Philip R. Boller, P.E.

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Harold D. Palmer, representing John Galt, Inc., Developer, who acknowledged the execution of the foregoing agreement for sewer extension, as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal, this 15th day of May, 1974.

Barbara E. Welty
Notary Public


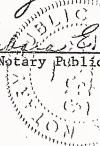
My Commission Expires:

December 22, 1974

STATE OF INDIANA, COUNTY OF ALLEN, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Harold D. Palmer, representing Harold D. Palmer, Owner, who acknowledged the execution of the foregoing agreement for sewer extension as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal, this 15th day of May, 1974.

Barbara E. Welty
Notary Public


My Commission Expires:

December 22, 1974

STATE OF INDIANA, COUNTY OF ALLEN, SS:

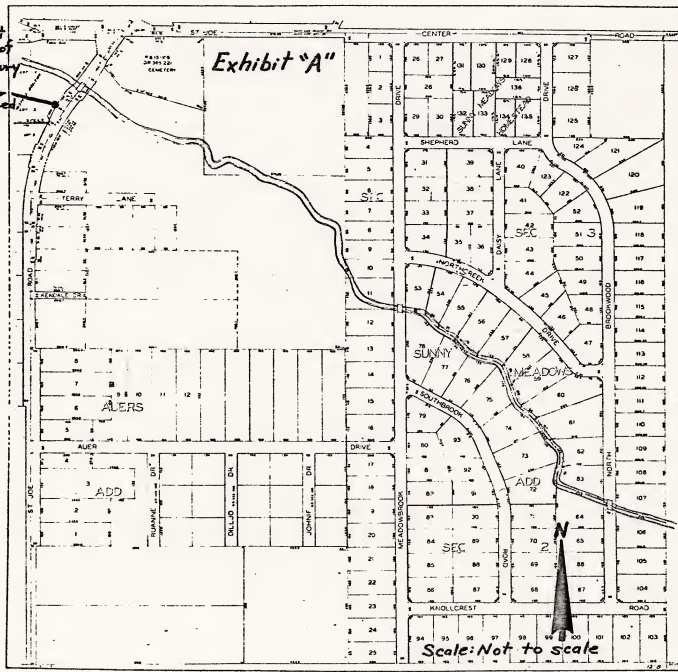
Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Ivan A. Lebamoff, Mayor; Jerry D. Boswell, Chairman of the Board of Public Works; Ronald L. Bonar and William G. Williams, Members of the Board of Public Works; and Edna I. Smith, Clerk of the Board of Public Works, who acknowledged the execution of the foregoing agreement for sewer extension, as and for their voluntary act and deed for the uses and purposes therein contained.

Notary Public

My Commission Expires:

Market Place of
Canterbury
Proposed
18"

Exhibit "A"



Scale: Not to scale

BOOK NO
 CORRECTED BY
 DATE
 JES-135-1

SYMBOLS
 1" = 100'

R-36

CITY OF FORT WAYNE ENGINEERING DEPARTMENT
 SEWER DIVISION
 425 S. CALUMET STREET
 FORT WAYNE, INDIANA

SCALE
 1" = 100'
 DATE 6-27-62
 NW & ST
 NO 20
 ST JOSEPH
 ROAD
 R-34

DIGEST SHEET

8-74-05-43

TITLE OF ORDINANCE: Sewer Extension Agreement with John Galt, Inc. & Harold PalmerDEPARTMENT REQUESTING ORDINANCE: Board of Public Works

SYNOPSIS OF ORDINANCE: Sewer Extension Agreement between City and John Galt, Inc. and Harold Palmer provides for construction of sanitary sewers to serve Market Place of Canterbury and other excess areas. Total cost of construction is \$22,807.28 to be shared 41% by Developer and 59% by City. Upon completion, the sewer shall become the property of the City. City shall be reimbursed when excess area connects at a cost not to exceed \$500 per acre plus area connection charge for the oversizing of the St. Joë Interceptor, Division IV, Resolution 219 in amount of \$400 per acre.

EFFECT OF PASSAGE: More sewer service provided--more customers for the Sewer Utility.

EFFECT OF NON-PASSAGE: Failure to provide service to outlying areas. Loss of future revenues to City.

MONEY INVOLVED (Direct Costs, Expenditures, Savings): Approximately \$13,456.30 to Sewer Utility to be recouped through new customers and connection fees.

ASSIGNED TO COMMITTEE (J.N.): Board of Work